Annual Report of the Supervisor of Consumer Credit

For Year Ending
December 31, 1984

Alberta

86-06539/

Alberta

CONSUMER AND CORPORATE AFFAIRS

Office of the Minister

402 Legislature Building, Edmonton, Alberta, Canada T5K 2B6 403/427-2305

The Honourable G. Amerongen
Office of the Speaker
Legislative Assembly of Alberta

Sir:

I have the honour to submit the Annual Report of the Supervisor of Consumer Credit for the year ending December 31, 1984, as required under the terms of The Credit and Loan Agreements Act.

Respectfully submitted,

Constantine E. Osterman

Constantine E. Osterman (Mrs.)
Minister of Consumer and
Corporate Affairs
M.L.A. for Three Hills

Alberta
CONSUMER AND
CORPORATE AFFAIRS
Program Development
Consumer Credit

9th Floor, Capitol Square, 10065 Jasper Avenue, Edmonton, Alberta, Canada T5J 3B1 403/427-5210

The Honourable Connie Osterman
Minister of Consumer and Corporate Affairs
M.L.A for Three Hills

Madam:

I am pleased to submit herewith my Annual Report for the year ending December 31, 1984, pursuant to the provisions of The Credit and Loan Agreements Act.

Respectfully submitted,

D.A. Bence
Supervisor of Consumer Credit

ANNUAL REPORT
OF THE SUPERVISOR
OF CONSUMER CREDIT

The Credit and Loan Agreements Act, in force since 1967, provides guidelines for the disclosure of specific information on consumer credit contracts. Although over the year a number of amendments were made to address new features and concerns in the marketplace, the intent of the legislation remains as follows:

> "To ensure, as far as possible, that persons borrowing or receiving credit from credit grantors are fully informed of all the terms and conditions on which the lending and granting of credit is made."

The consumer granting industry has changed dramatically since the late 1960s, not only in volume - - which has increased from less than $9 billion outstanding to in excess of $50 billion outstanding, but also in the types of businesses involved. Chartered banks, for instance, first allowed to enter the consumer lending field on a wide-scale basis in the late 1960s, are now among the major credit grantors in the consumer lending industry, along with credit unions and trust companies. Meanwhile, the significance of consumer loan companies continues to decrease, with many either selling out their operations or converting to trust company or bank operations.

This shift in the consumer credit field, combined with the introduction of federal regulations dealing with disclosure, created a number of problems within the Province of Alberta during 1984.

The major difficulty resulted from the Cost of Borrowing Disclosure Regulations under the Bank Act, passed in 1983 to provide a framework of disclosure for many of the innovative approaches to lending which had developed or were desired by both lenders and borrowers. The primary provisions within these regulations were to allow logical disclosure for loans where the rate could be varied during the course of the contract in response to changes in the prime rate set by the Bank of Canada. The regulations also require all consumer loans granted through chartered banks to be computed on a simple-interest basis and, in effect, barred the use of the "rules of '78" form of rebate calculation, which had proved confusing and, in many cases, to be an additional penalty to be paid by consumers.

These changes to the Bank Act Regulations put all lenders other than the chartered banks at a disadvantage within the Province of Alberta, because the existing Credit and Loan Agreements Act did not recognize some of the new lending vehicles developed and used by the chartered banks. To maintain their share of the marketplace, many lenders developed hybrid forms of disclosure, which did not meet all of the terms of the existing Credit and Loan Agreements Act, to try to meet borrowers' wishes while still attempting to provide them with the relevant information surrounding the terms of borrowing.

In response to this need, in September of 1984 the Minister of Consumer and Corporate Affairs circulated a discussion paper to the industry and other affected groups and individuals to elicit ideas and concerns regarding replacement of the existing Credit and Loan Agreements Act to address these problems. This effort, co-ordinated through the Supervisor of Consumer Credit, drew substantial response from interested parties. A variety of concerns have been addressed in forming new legislation aimed at putting provincially regulated lenders on a more equal footing with the chartered banks.

The primary area of concern, brought out in the discussion paper, was to arrive at common forms of disclosure for lending transactions such that consumers could gain the same information for the same type of transaction regardless of source, whether it be chartered bank, credit union, trust company, or other lender.

The discussion paper retained the intent of the existing legislation while recognizing the need for a more flexible framework for disclosure to benefit both the borrower and the lender.

Tax Discounting

One of the responsibilities of the Supervisor of Consumer Credit under the Credit and Loan Agreements Act, is to register tax discounters in the Province of Alberta. The Supervisor also heads the Consumer Credit Program, which administers the Tax Rebate Discounting Act - - a federal statute regulating the activities of tax discounters and administered by the department through agreement with the federal government.

In 1984, the number of registrants in Alberta increased to 28 from 13 the previous year. Although the activity of tax discounters increased dramatically in 1984 (see Appendix 1), complaint investigations throughout Alberta were virtually unchanged in number from those in 1983 (see Appendix 2). Over 75% of all discount transactions in the Province were conducted through three large corporations (two national and one regional).

During 1984, both National and Provincial Associations of Tax Discounters were initiated, to address industry problems and concerns and to liaise with various government departments.

Education

The Supervisor of Consumer Credit also serves as Chairman of the Debtors' Assistance Board. Under the auspices of the Board, counsellors situated in the department's regional offices provide Albertans with assistance and education in family budgeting and consumer credit. The theme of the educational activity continued to focus on self-help and increased awareness in the marketplace.

Current Business Practices

During 1984, advertising of credit plans became prevalent in the market place, particularly those offering "no interest" and "no downpayment" and/or extended no-payment periods. Departmental concern in this area stems from the inadequacy of the Credit and Loans Agreement Act in addressing the form such advertisements must take, as well as from the potential hazards of consumers not recognizing the hidden costs of credit. Also of concern is the possibility that such credit plans, by postponing consumers' obligation to fulfill their contracts, may lead to increased delinquency and thereby greater costs in the marketplace.

The other new feature which arose in 1984 was the development of lease packages, particularly for motor vehicles, aimed specifically at the consumer. Although leasing traditionally had been geared to the business community, new schemes aimed at consumers and featuring buy-backs, low initial payments and often lower monthly payments, became common. Areas to be addressed through updated disclosure regulation include a standard format for the disclosure of pertinent terms dealing with leases and, in particular, a means of disclosing to the consumer the terms of buy-backs or potential balloon payments at the end of contracts.

Another area of concern for the Supervisor related to mortgage lending and the lack of any standard form of disclosure relevant to the marketplace in total. The Bank Act Regulations do provide a form of disclosure for mortgage lending for chartered banks, and existing provincial legislation provides for other means of disclosure for mortgage brokers and trust companies in Alberta. The form of disclosure within these three areas is not common, however, and other lenders such as credit unions have neither standard guidelines nor requirements for disclosure beyond those developed internally. The need for clear and standard rules to benefit both lenders and borrowers intensified during the last year.

The number of complaints investigated by our regional office personnel increased minimally to 368 during 1984 despite substantial increases in lending volume. This statistic suggests progress in having businesses correct practices and address potential concerns before they result in formal investigations. The breakdown of the various types of credit grantors with which the investigations dealt remain virtually unchanged from 1983, with collection practice still the largest complaint area (see appendices 2 and 3).

Court enforcement activity under the Credit and Loan Agreements Act involved one major retailer's credit advertising and a conviction, under the Criminal Code, of one tax discounter.

Industry Liaison

Potential legislative changes to the Credit and Loan Agreements Act were the basis of numerous discussions with industry during the later part of 1984. Throughout the year, contact was maintained with various credit-industry representatives and associations as well as other interested individuals representing a variety of groups and concerns.

The office of the Supervisor of Consumer Credit also continued to work with counterparts in other jurisdictions and with other enforcement agencies.

Appendix 1

Activity of Alberta Tax Discounters

	1981	1982	1983	1984
Number of Returns Acquired	4781	8312	20254	41049
Total Amount of Refunds Acquired	$3,531,913.00	$6,744,088.00	$18,145,626.00	$34,281,318.30
Average Refund	$738.74	$811.37	$895.90	$817.21
Total Discount Retained	$436,863.00	$897,538.00	$2,582,875.00	$5,013,332.71
Average Discount Per Return	$91.37	$107.98	$127.52	$119.51
Percentage of Refund Retained	12.40%	13.30%	14.23%	14.62%

Appendix 2

Summary of Credit Complaints Received By

Consumer Credit Program in 1984

Complaint Investigations
(by type of business)

	TOTAL	% of TOTAL
Collection Agency	134	37.43
Retail	111	31.00
Bank (includes credit unions and trust companies)	46	12.85
Finance Company	26	7.26
Mail Order	3	.84
Tax Discounter	23	6.42
Personal Services	6	1.68
Credit Reporting	9	2.51
Other	10	2.79
TOTAL	368	

Appendix 3

Complaint Investigations
(by type of problem)

	TOTAL	% of TOTAL
Collection Practices	114	30.98
Cost of Credit	42	11.41
Advertising	71	19.29
Pay Out Calculation	18	4.89
Contract Liability	18	4.89
Unethical Practices	14	3.80
Cancellation of Contract	8	2.17
All Others (includes licencing investigations)	83	22.55
Total Complaints	368	